

DEC 12 2005

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARTIN VALDEZ RAMIREZ; MARIA
LORETO ALVARADO VALDEZ,

Petitioners,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-74476

Agency Nos. A75-649-237
A75-729-113

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted December 5, 2005^{**}

Before: GOODWIN, W. FLETCHER, and FISHER, Circuit Judges.

Martin Valdez Ramirez and Maria Loreto Alvarado Valdez, natives and
citizens of Mexico, petition for review of the Board of Immigration Appeals'

^{*} This disposition is not appropriate for publication and may not be
cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-
3.

^{**} This panel unanimously finds this case suitable for decision without
oral argument. *See* Fed. R. App. P. 34(a)(2).

(“BIA”) denial of their motion to reopen their applications for cancellation of removal. We have jurisdiction to review the BIA’s denial of petitioners’ motion to reopen. *See Zazueta-Carrillo v. Ashcroft*, 322 F.3d 1166, 1169-70 (9th Cir. 2003). We review for an abuse of discretion, *Bhasin v. Gonzales*, 423 F.3d 977, 983 (9th Cir. 2005), and deny the petition for review.

Petitioners were required to present evidence that was unavailable or undiscoverable at their hearing. *See id.* at 984. However, even assuming that the unverified assertions in petitioners’ motion to reopen and letters are “evidence” for purposes of a motion to reopen, they are insufficient. Nothing suggests that their son’s medical condition was not previously known. Indeed, petitioners’ appeal brief to the BIA, filed seven months after the hearing, alleging a “continuous medical problem,” suggests the contrary. *Cf. id.* at 987. So do their statements in the motion to reopen to the effect that he suffers from a “life long” condition. *Cf. id.* The BIA, therefore, did not abuse its discretion in denying the motion to reopen. *Cf. id.* at 983.

PETITION FOR REVIEW DENIED.